

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-016-02-1-5-00278  
**Petitioner:** James Newbold  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 006142001560066  
**Assessment Year:** 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter, and finds and concludes as follows:

### Procedural History

1. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held in February 2004. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$7,500 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 27, 2004.
3. The Board issued a notice of hearing to the parties dated October 18, 2004.
4. A hearing was held on November 19, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

### Facts

5. The subject property is a 45' x 150' strip of vacant land located in the rear of the 1900 block of Vigo Street, Lake Station, in Hobart Township.
6. The Special Master did not conduct an on-site visit of the property.
7. Assessed Value of the subject property as determined by the DLGF:  
Land \$7,500
8. Assessed Value requested by the Petitioner on the Form 139L petition:  
Land \$1,000
9. The following persons as indicated on the sign-in sheet (Board Exhibit C) were present and sworn in at the hearing:

For Petitioner: James Newbold, Owner

For Respondent: Diane Spenos, DLGF

Monia Sue Felker appeared with the Petitioner and observed the hearing.

### **Issue**

10. Summary of Petitioner's contentions in support of alleged error in assessment:
  - a) The subject property is located behind the Petitioner's home and across a utility easement. There is no ingress or egress to the subject property. There is a wooded lot behind the subject property. The Petitioner must cross the easement to get to the property. *Newbold testimony; Petitioner Ex. 3.*
  - b) The subject property is useless for anything but gardening. Improvements cannot be built upon the property. There are no roads to get to the property. *Newbold testimony.*
  - c) The Petitioner paid \$300 for the subject property in 1980. *Newbold testimony; Petitioner Ex. 4, 6.*
  
11. Summary of Respondent's contentions in support of assessment:
  - a) The land is valued as a front lot with a negative 60% influence factor applied for vacancy. *Spenos Testimony.*
  - b) After hearing the Petitioner's testimony, the Respondent agreed the property was assessed in error. *Spenos Testimony.*
  - c) The Respondent stated the subject property should be valued as a rear lot. The subject property is currently being assessed as a front lot. *Spenos Testimony.*
  - d) The Respondent stated the subject property should receive a 90% influence factor since the subject property is unbuildable due to the easement separating the property from the adjacent property owners. *Spenos Testimony*

### **Record**

12. The official record for this matter is made up of the following:
  - a) The Petition and all subsequent pre-hearing submissions by either party.
  - b) The tape recording of the hearing labeled Lake Co. #826.
  - c) Exhibits:

Petitioner Exhibit 1: Form 139L Petition  
Petitioner Exhibit 2: Subject Property Record Card  
Petitioner Exhibit 3: Plot Plan Sketch  
Petitioner Exhibit 4: Warranty Deed  
Petitioner Exhibit 5: Tax Bills for 2001-2004  
Petitioner Exhibit 6: Proof of Payment for Parcel  
Petitioner Exhibit 7: Notices of Assessment from 1995 and 2002  
Petitioner Exhibit 8: Notice of Final Assessment  
Petitioner Exhibit 9: Photograph of Property

Respondent Exhibit 1: Form 139L Petition  
Respondent Exhibit 2: Subject Property Record Card  
Respondent Exhibit 3: Parcel Maps

Board Exhibit A: Form 139L petition  
Board Exhibit B: Notice of Hearing  
Board Exhibit C: Hearing Sign-In Sheet

- d) These Findings and Conclusions.

### **Analysis**

13. The most applicable governing cases are:
- a) A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
  - b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
  - c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id; Meridian Towers*, 805 N.E.2d at 479.
14. The Petitioner provided sufficient evidence to support the Petitioner’s contention for a reduction in assessed value. This conclusion was arrived at because:

- a. After reviewing the Petitioner's evidence, the Respondent agreed the property was over-assessed. The Respondent testified that the subject property should be valued as a rear lot with a negative 90% influence factor for being unbuildable. *Spenos Testimony.*
- b. The Petitioner agreed with the changes proposed by the Respondent. *Newbold testimony.*
- c. Based on the discussions at the hearing, the subject property shall be valued as a rear lot and given a negative 90% influence factor.

### **Conclusion**

15. The Petitioner made a prima facie case. The Respondent agreed with the Petitioner's contentions. The Board finds in favor of the Petitioner.

### **Final Determination**

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: \_\_\_\_\_

\_\_\_\_\_  
Commissioner,  
Indiana Board of Tax Review

## **IMPORTANT NOTICE**

### **- APPEAL RIGHTS -**

**You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.**